

Increase in BVI Probate Fees

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The Eastern Caribbean Supreme Court (Court Proceedings Fees) (Virgin Islands) Rules, 2017 (**the New Rules**) impose new fees for non-contentious probate applications and replace the old fees which had applied since the 1980s.

The new fees apply to all grant applications submitted on or after 1 November 2017 irrespective of the date of death of the deceased.

The higher fees imposed under the New Rules are yet another reason for clients holding shares in BVI companies and other BVI assets in a trust rather than personally in their own name.

In the past, the total filing fees for a grant application was nominal and was usually within US\$100.

However, under the New Rules, the amount has increased quite substantially and the categories of fees have been expanded as well. For example, for an estate with a value of more than US\$5,000, the filing fee for declaration of value is increased from US\$20 to US\$1,000. Also, there used to be a standard fee of US\$3 per document for almost all types of application documents with limited exceptions. Now there are various fee categories with different fee levels.

In general, for a non-BVI domiciled deceased, the following documents will need to be filed for a probate application:

1. Application for grant of probate
2. Affidavit in support with the following exhibits:
 - a. Death certificate of the deceased (or other proof of death)
 - b. Death certificate of executor being cleared off (if applicable)
 - c. Copy of original duly marked will.
3. Original duly marked will
4. Affidavit of attesting witness
5. Affidavit of foreign law as to the validity of the will
6. Renunciation of executor being cleared off (if applicable)
7. Declaration on oath as to value
8. Affidavit of search
9. 2 newspaper notices
10. Affidavit of delay (if applicable)
11. Affidavit of translation (if applicable)
12. Any other affidavit (if applicable)
13. Draft order
14. Draft grant

New grant application filing fees can easily add up to US\$1,000 for estates valued at not more than US\$5,000 or US\$2,000 for estates valued at more than US\$5,000.

It is not uncommon that the deceased was the sole shareholder and sole director of a BVI company. In that case, a further court application is required to register the grant and to register the personal representative.

Our Private Client and Trusts team has a wealth of experience in advising on probate and letters of administration applications for estates of non-BVI domiciled deceased and the administration of the BVI estate. We also advise on succession planning for BVI assets including the use of wills, offshore trusts and foundations.

If you wish to have more information on BVI probate applications, please contact our team of experts Marcus Leese, Anthony Partridge or Wisdom Hon.

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Ogier provides practical advice on BVI, Cayman Islands, Guernsey, Jersey and Luxembourg law through its global network of offices. Ours is the only firm to advise on these five laws. We regularly win awards for the quality of our client service, our work and our people.

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